

REMARKS

In the final Official Action mailed 13 June 2008, the Examiner reviewed claims 6, 7, 10-16, 19, 20, 22-25, 27 and 28. The Examiner has rejected claims 6, 7, 10-16, 19, 20, 22-25, 27 and 28 under 35 U.S.C. §102(b) as being anticipated by Solano *et al.* (US 4,921,478).

Support for the amendments to the claims relating to passageway sealing can be found in paragraphs 41 and 42.

After entry of this Amendment, claims 6, 7, 10-16, 19, 20, 22-25, 27 and 28 will remain in this case.

The Cited Art

The patent to Solano discloses an angioplasty system for treatment of cerebral arteries. Devices include an occluder component 10 and an interventional component 12. (4/26-29) Occluder component 10 includes inner and outer shafts 22, 24 secured at the distal ends and defining an inflation lumen 26 therebetween. (4/48-54) An occlusion balloon 16 is carried on the distal end of occlusion component 10. (4/30-32) Balloon 16 is expanded to occlude the blood vessel by the passage of a fluid or gas under pressure through inflation lumen 26 and into the balloon. (5/32-35) The distal end of outer shaft 24 is slit at 27 to create a number of struts 28. (5/37-47) After the inflatable balloon 16 has been inflated, pulling the inner shaft 22 causes the struts 28 to be deflected (as shown in figures 5A-5C, 6A-6D and 10A-10B) to deform the balloon. (5/54-68)

The Cited Art Distinguished

Each of the independent claims, that is claims 6, 10, 15, 19, 22 and 25, were previously amended to recite (1) that the blood flow blocking element is a balloon-less blood flow blocking element, and (2) expanding the blood flow blocking element to the expanded state is carried out without inflating a balloon using a fluid.

In rejecting the claims, the Examiner has stated that the Solano reference has "a balloon-less blood flow blocking element comprising structural members (28) defining openings therebetween (27)." In the Response to Arguments the Examiner states that "the blood flow blocking element is not required to completely occlude the passage [of] all blood through the vessel." This, applicant submits, is an erroneous reading of Solano and an improper interpretation of balloon less blood flow

blocking element in this application. Occlusion balloon 16 is the blood flow blocking element of Solano. Struts 28 do not and could not act as an occluder of the blood vessel because of their split construction. Accordingly, contrary to the Examiner's position, struts 28 of Solano do not constitute a blood flow blocking element. Rather, Solano shows a blood flow blocking element comprising a balloon, the opposite of what is claimed. The Examiner also stated that the balloon can be inflated with the air as well as fluid; however, the word fluids includes both gases and liquids.

However, to help move this application to allowance, applicant has amended the **independent method claims 6, 15 and 25** to recite "radially expanding said blood flow blocking element into a radially expanded, passageway sealing state extending to ~~or near to~~ the wall of the body passageway" and "using said radially expanded, passageway sealing state of said blood flow blocking element for completely blocking passage of material around the outside of said catheter." Accordingly, the independent method claims have been amended to specify that the blood flow blocking element completely blocks passage of material around the outside of the catheter. This would not be true using the Examiner's interpretation of Solano in which the blood flow blocking element included struts 28 but not balloon 16. Therefore, Solano does not anticipate the independent method claims.

The **independent apparatus claims 10, 19 and 22** have also been amended to recite that the blood flow blocking element has a radially expanded, passageway sealing state. Using the Examiner's position that the struts alone "are considered the blood blocking element and not the combination of the struts and a balloon" and that "the blood flow blocking element is not required to completely occlude passage [of] all blood to the vessel," the blood flow blocking element of Solano, so interpreted, would not have a radially expanded, passageway sealing state as that term is properly understood. Therefore, Solano does not anticipate the independent apparatus claims.

It would not have been obvious to modify Solano to remove its occlusion balloon (so that it would include a balloon-less element) because doing so would make the resulting device ineffective as an occluder. Therefore, the independent claims would not have been obvious over Solano alone or in view of the cited art.

The **dependent claims** are directed to specific novel subfeatures of the invention and are allowable for that reason as well as by depending from novel parent claims.

CONCLUSION

It is respectfully submitted that this application is now in condition for allowance, and such action is requested. If the Examiner believes a telephone conference would aid the prosecution of this case in any way, please call the undersigned at (650) 712-0340.

The Commissioner is hereby authorized to charge any fee determined to be due in connection with this communication, or credit any overpayment, to our Deposit Account No. 50-0869 (GTEC 1001-5).

Respectfully submitted,

Dated: 21 August 2008

/James F. Hann/

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